

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

CB&I AREVA MOX SERVICES, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Nos. 16-950C, 17-2017C, 18-
	)	80C, 18-522C, 18-677C, 18-
	)	691C, 18-921C, 18-1779, 19-
	)	245C
	)	(Judge Thomas C. Wheeler)
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

**DEFENDANT'S NOTICE OF A DIRECTLY RELATED CASE**

Pursuant to Rule 40.2 of the Rules of the United States Court of Federal Claims (RCFC), the defendant, the United States, respectfully provides the Court with this notice of a directly related case, *United States v. CB&I AREVA MOX Services, LLC, and Wise Services, Inc.* (No. 19-444) (D. S.C.) (MOX D.S.C.). Under RCFC 40.2 (a)(2), the *MOX D.S.C.* litigation is a directly related case because it involves the same parties, similar claims, and the same contract.

In *MOX D.S.C.*, the United States filed suit against CB&I AREVA MOX Services (MOX Services) and its subcontractor, Wise Services, Inc., under the False Claims Act and the Anti-Kickback Act in connection with the same contract at issue in this litigation between MOX Services and the National Nuclear Security Administration (NNSA) relating to the design and operation of a Mixed Oxide Fuel Fabrication Facility (MFFF).<sup>1</sup> In performing the contract, MOX Services entered into a series of subcontracts

---

<sup>1</sup> A copy of the complaint in the *MOX D.S.C.* litigation is attached to this notice.

with Wise Services between 2008 and 2016, in which Wise Services agreed to supply labor, materials, equipment, and supervision for unplanned construction activities deemed necessary to support MOX Services's efforts at the MFFF.

The United States' complaint alleges that Wise Services falsely claimed reimbursement under its subcontracts with MOX Services for construction materials that did not exist, and that in turn, MOX Services knowingly submitted \$6.4 million in claims to NNSA for fraudulent charges submitted by Wise Services. The complaint also alleges that Wise Services' Senior Site Representative, Phillip Thompson, paid kickbacks to MOX Services officials with responsibility for the subcontracts to improperly obtain favorable treatment from MOX Services. On February 27, 2017, Mr. Thompson entered a guilty plea on charges of conspiring to commit theft of government funds.

These allegations in the Complaint involving MOX Services's submission of fraudulent claims to NNSA and acceptance of kickbacks in connection with Wise Services are similar to issues in this litigation. Specifically, in case no. 17-2017, MOX Services challenges NNSA's disallowance of \$ 6,367,411 in subcontractor costs related to Wise Services and Carolina Sodding, which were included in MOX Services' 2010 incurred cost submission. Some of the costs related to Wise Services that MOX Services included in its 2010 incurred cost submission are the same costs that are the subject of the United States' False Claims Act claim in the *MOX D.S.C.* litigation.

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.  
Director

s/Allison Kidd-Miller  
ALLISON KIDD-MILLER  
Assistant Director

s/Joseph E. Ashman  
JOSEPH E. ASHMAN  
P. DAVIS OLIVER  
Senior Trial Counsel

ANTHONY SCHIAVETTI  
SOSUN BAE  
Trial Attorneys  
Commercial Litigation Branch  
Civil Division  
Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, D.C. 20044  
Tel: (202) 353-7578  
Fax: (202) 353-7988

February 21, 2019

Attorneys for Defendant